

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

BABY DOE, *et al.*,

Plaintiffs,

-v.-

JOSHUA MAST, *et al.*,

Defendants.

CIVIL NO: 3:22-cv-00049-NKM-JCH

**PLAINTIFFS' MOTION TO SEAL PLAINTIFFS' EXHIBITS A, B, F, I, J, L, M, N, AND
R TO PLAINTIFFS' PRE-HEARING BRIEF IN SUPPORT OF MOTION TO SHOW
CAUSE WHY DEFENDANT JOSHUA MAST AND HIS THIRD-PARTY
REPRESENTATIVE JONATHAN MAST SHOULD NOT BE HELD IN CONTEMPT
FOR VIOLATING THE COURT'S PROTECTIVE ORDER**

Plaintiffs, by counsel, respectfully move for leave to file under seal Plaintiffs' Exhibits A, B, F, I, J, L, M, N, and R to Plaintiffs' Pre-Hearing Brief in Support of Motion to Show Cause Why Defendant Joshua Mast and His Third-Party Representative Jonathan Mast Should Not be Held in Contempt for Violating the Court's Protective Order ("Plaintiffs' Pre-hearing Brief"), pursuant to Local Civil Rule 9 and this Court's Protective Order (ECF No. 26). In support thereof, Plaintiffs state as follows:

The Exhibits contain identifying information regarding Plaintiffs. Exhibits A, B, I, J, L, N contain numerous identifying photographs of Baby Doe. Exhibits F, M, and R contain references to Baby Doe using the name given to her by Defendants. Exhibit R contains additional identifying information about Baby Doe, including where in Afghanistan she was recovered and a description of her physical injuries. This Court has issued a Protective Order (ECF No. 26) allowing Plaintiffs, including Baby Doe, to proceed under pseudonyms, given the concern for their safety and that of other innocent non-parties, such as their family members.

Under the common law right of access to judicial records, documents should be sealed when a party's interest in keeping the information contained therein confidential outweighs the presumed right of public access. *See, e.g. Stone v. Univ. of Maryland Med. Sys. Corp.*, 855 F.2d 178 (4th Cir. 1988); *Ashcroft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). "Courts have recognized that an interest in protecting the physical and psychological well-being of individuals related to the litigation, including family members and particularly minors, may justify restricting access" to court documents. *United States v. Harris*, 890 F.3d 480, 492 (4th Cir. 2018); *see also United States v. Doe*, 962 F.3d 139, 147 (4th Cir. 2020). In this instance, the threats to the safety of the Plaintiffs and other innocent non-parties are very real, and have been recognized by this Court's Protective Order (ECF No. 26).

Plaintiffs' Brief, which references the Exhibits, has been filed publicly. In addition, Plaintiffs have filed publicly redacted versions of Exhibits F and M, which contain few references to Baby Doe by name. Thus, the public is not wholly deprived of an understanding of the general underlying factual basis for the request. The relief Plaintiffs seek in this Motion to Seal is narrowly tailored to the circumstances, and aims to seal only what is absolutely necessary to safeguard the safety of persons related to the litigation.

Accordingly, Plaintiffs request that Exhibits A, B, F, I, J, L, M, N, and R to Plaintiffs' Pre-hearing Brief be filed under seal, as the risks attendant to public disclosure of these documents is not likely to dissipate over time. A proposed Order is attached as Exhibit A to this Motion.

Dated: May 15, 2024

Respectfully submitted,

/s/ Maya Eckstein

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

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